

UNITED STATES DISTRICT COURT
VERMONT DISTRICT OF NEW YORK

THOMAS COLE,

Plaintiff,

v.

FOXMAR, INC., d/b/a EDUCATION AND
TRAINING RESOURCES,

Defendant.

**NOTICE OF RENEWED
MOTION FOR JUDGMENT
AS A MATTER OF LAW
PURSUANT TO FRCP 50
OR IN THE ALTERNATIVE
FOR A NEW TRIAL OR
AMENDED VERDICT
PURSUANT TO FRCP 59**

Civil Action No. 2:18-cv-220

PLEASE TAKE NOTICE, that pursuant to Rules 50 and 59 of the Federal Rules of Civil Procedure, the undersigned hereby moves this Court for an order granting the motion of Defendant Foxmar Inc., d/b/a Education and Training Resources ("Defendant") to set aside the jury's verdict rendered on July 30, 2021 and entered by the Court on August 2, 2021, or in the alternative, to order a new trial or to amend the jury's verdict, on the following grounds:

- (1) No reasonable jury could find that Plaintiff engaged in a protected activity under the Vermont Occupational Safety and Health Act ("VOSHA") or the Vermont Earned Sick Time Act ("VESTA");
- (2) Even if Plaintiff engaged in a protected activity, no reasonable jury could find that such protected activity was the but-for cause of his termination;
- (3) The Court erred in submitting the question of punitive damages to the jury;
- (4) The jury verdict was impermissibly influenced by extraneous, prejudicial information and/or an improper outside influence brought to bear on the jury;
- (5) The jury was presented with inadmissible evidence;
- (6) The jury verdict was against the weight of the evidence; and
- (7) The size of the jury verdict shocks the conscience and is contrary to the weight of the evidence presented at trial.

Pursuant to the Court's August 19, 2021 Order (Dkt. No. 128), Defendant will submit its Memorandum of Law in further support of this Motion on or before October 1, 2021.

Dated: August 27, 2021

BOND, SCHOENECK & KING, PLLC

By: s/ Michael D. Billok

Michael D. Billok, Esq.

Mara D. Afzali, Esq.

Paul J. Buehler, III, Esq.

Attorneys for Defendant

268 Broadway, Suite 104

Saratoga Springs, NY 12866-4281

T: 518.533.3236

F: 518.533.3284

E-mail: mbillok@bsk.com

mafzali@bsk.com

pbuehler@bsk.com

CARROLL, BOE &, PELL & KITE, P.C.

By: s/ Kevin L. Kite

Kevin L. Kite, Esq.

Attorneys for Defendant

64 Court Street

Middlebury, VT 05753

T: 802.388.6711

F: 802.388.2111

Email: kkite@64court.com

TO: William Pettersen, IV, Esq.
Attorneys for Plaintiff
Pettersen Law PLLC
1084 East Lakeshore Drive
Colchester, VT 05446
T: 802.477.2780
Email: pettersenlaw@gmail.com